



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No. 6293-99
4 February 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 28 December 1965 for a minority enlistment at age 17. The record reflects that you were advanced to FA (E-2) and were authorized the Vietnam Service Medal for service on board the USS CIMARRON (AO-22) during the period from April to September 1966.

During the 16 month period from March 1967 to July 1968 you received two nonjudicial punishments (NJP) for two periods of unauthorized absence (UA) totalling about 18 days. The record reflects that you went UA again on 13 November 1968 and remained absent until you were apprehended on 23 November 1968 by civil authorities on charges of forgery and robbery. You were returned to military jurisdiction on 31 December 1968 on the condition that if the grand jury indicted you on the foregoing charges, a warrant would be issued for your return to civil authorities.

On 6 February 1969 you were convicted by special court-martial of three periods of UA totalling about 76 days, from 27 July to 4 August, 12 September to 1 October, and 13 November to 31 December 1968. You were sentenced to confinement at hard labor for three months, forfeitures of \$96 per month for 3 months, and reduction in rate to FR (E-1).

On 25 April 1969, the commanding officer advised the Bureau of Naval Personnel that you had been indicted by the grand jury and the circuit court had requested your presence on 27 May 1969. Any further action taken by civil authorities is not shown in the record.

On 4 June 1969, you were convicted by a second special court-martial of six periods of UA totalling about 20 days, from 21-23 April, 25-27 April 28 April to 1 May, 2-14 May, 15-16 May and 19-20 May 1969. You were sentenced to confinement at hard labor for three months, forfeitures of \$95 per month for three months, and a bad conduct discharge. On 17 September 1969 you waived your right to request restoration to duty and requested that the bad conduct discharge be executed. Thereafter, you were placed on appellate leave. You received the bad conduct discharge on 7 December 1970.

The record further reflects that on 17 March 1976 you were issued a clemency discharge and a DD Form 215N pursuant to Presidential Proclamation No. 4313.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, Vietnam service, and the fact that it has been more than 29 years since you were discharged. The Board noted your contention to the effect that President Ford granted pardons to individuals who went UA. You believe you should get a pardon and a general discharge.

The Board noted that veterans who were discharged between August 1964 to March 1973 with undesirable or bad conduct discharges for absence-related offenses were permitted to apply to the Presidential Clemency Board (PCB) for clemency discharges and pardons. Apparently, in 1976 you applied for and were granted one of these discharges. Neither a clemency discharge nor a pardon changed the character of an individual's service or entitled the individual to veterans' benefits.

The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of two NJPs and two special court-martial convictions for 11 periods of UA totalling about 114 days. The Board concluded that you were guilty of too much misconduct to

warrant recharacterization of your clemency discharge to a general discharge under honorable conditions. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director